

Labor, and Pensions Committee, and had I been able to attend today's votes, I would have voted in support of final passage of this important legislation.

Additionally, I would have voted to support the Bingaman amendment No. 2111, the Murkowski amendment No. 2108, the Sanders amendment No. 2109 and the McCain amendment No. 2107. I would have voted against tabling the Durbin amendment No. 2127 and voted to table the Paul amendment No. 2143.

During the Senate's debate on S. 2343, the Stop the Student Loan Interest Rate Hike Act of 2012, I would have opposed the Alexander amendment No. 2153 and supported passage of S. 2343.

#### OFFICER SAFETY ACT

Mr. DURBIN. Mr. President, I would like to make clear for the record a matter relating to the Officer Safety Act of 2012. I thank my colleague from Iowa for working with me on this legislation. I cosponsored this bill after changes were made, in the nature of a substitute amendment, to clarify the limited scope of the legislation. The Officer Safety Act clarifies when an officer is "acting under the color of his office" for removal purposes only. As my colleague has stated previously, the bill provides no liability protection. Whether a law enforcement officer is deemed to have been "acting under the color of his office" for removal purposes under 28 U.S.C. §1442(c), as amended, is a separate question from whether that officer should subsequently be held liable for his conduct, whether the officer should be considered immune from suit, or whether the officer's defense in a criminal trial has merit.

The clarification of "color of . . . office" and the expansion of removal eligibility granted by this legislation is not meant to affect those latter determinations of liability and immunity. The bill is simply meant to give these law enforcement officers the ability to make arguments pertaining to liability, immunity, and potential criminal defenses in Federal rather than in State court. Does my colleague agree?

Mr. GRASSLEY. My colleague from Illinois is correct.

#### STRUGGLING AGAINST BUREAUCRACY

Ms. SNOWE. Mr. President, this week is National Small Business Week, which is a time to celebrate the entrepreneurial spirit behind American enterprise. But, as I was reminded by a piece that was published recently in the Wall Street Journal, it is also a time to remember how government can better serve the small businesses in America. In today's economy, the Nation needs an effective regulatory environment that allows small business to grow and create jobs while keeping our families and environment safe. I ask unanimous consent to have this article printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, May 22, 2012]

#### THE RED TAPE DIARIES—ONE SMALL BUSINESS OWNER'S STRUGGLE AGAINST BUREAUCRACY

(By Nicholas N. Owens)

This week is National Small Business Week, a time to celebrate the ingenuity of entrepreneurs—and to consider how government can provide better service to the small enterprises that form the backbone of American industry.

Consider the Environmental Protection Agency official who described his agency's work as akin to crucifixion. In a Web video from 2010 that recently came to light, Al Armendariz likened regulatory enforcement to the Roman imperial practice of crucifying people to serve as an example to others: soldiers would go to "a town somewhere, they'd find the first five guys they saw, and they'd crucify them," he explained. "And then, you know, that town was really easy to manage for the next few years."

Mr. Armendariz's point was that making examples of certain businesses or industries would serve as a deterrent to ensure compliance. But the way he illustrated his point provoked outrage, and within days he had resigned from the agency—proving again that the journalist Michael Kinsley was right to say that a "gaffe" in Washington is when someone accidentally tells the truth.

I know first-hand that Mr. Armendariz's view is a truthful representation of how many regulators view their function. While serving as the Small Business Administration's (SBA) national ombudsman from 2006 to 2009, I worked with small business owners who believed they were falling victim to unfair or excessive regulatory enforcement. All too often, I saw federal regulators take a stridently adversarial stance toward the industries they oversee.

In 2007, for example, I was contacted by Rob Latham, who runs a small Internet sales company in Greenville, S.C. Mr. Latham started his business in 2005 and was prepared to work hard to make it succeed.

He wasn't prepared for how easily a run-in with federal regulators could bring him to the brink of ruin. That's what happened in 2007 after he found himself embroiled in a months-long dispute with the EPA over a shipment of engines he had imported.

The issue came down to labeling. Although the product Mr. Latham was importing met the EPA's environmental standards, regulators ordered the shipment seized because it contained labels that could be removed with a razor blade. (In other words, they were somewhat vulnerable to damage or tampering.) Mr. Latham thought the dispute could be easily resolved but was surprised by the EPA's intransigence—its dedication to junking his entire shipment—when he tried to work with them.

Mr. Latham wasn't ignorant of the regulations that governed his business—quite the opposite. He had carefully studied the rules that governed the products he was importing, and he thought he had taken all appropriate steps to ensure compliance. But as a small business owner with no in-house legal team, he had little idea how complicated the bureaucratic process would be.

He met with regulators in Washington to resolve the issue but found that they doubled down on their position, becoming hostile and aggressive.

That's when he reached out to my office. Hearing of his plight, I contacted the EPA on his behalf and started working with regulators to resolve the case. Soon thereafter, the regulators relented and allowed Mr.

Latham's imports to move forward—but only after he paid a substantial penalty of \$10,000, an apparent tribute to the regulators to allow them to save face.

The story ends happily: Once the EPA dispute was resolved, Mr. Latham's business grew swiftly. Today his company boasts three warehouses and more than 20 employees.

But had Mr. Latham not connected with my office, he might have lost his business. It's frightening to think what other small business owners encounter in similar situations. What about those who don't know where to turn, or who aren't lucky enough to stumble across the right advice or the right advocate?

As of 2008, small businesses faced an annual regulatory cost of \$10,585 per employee, according to an SBA regulatory impact study published two years ago.

So was Rob Latham crucified? That's too strong a word, because it's likely he wasn't specifically targeted—he was simply caught up in a web of red tape and bureaucracy, and the regulators had little interest in helping him get through the impasse. His struggle is a case study in why we need a regulatory regime that's fair, accountable and allows our economy to grow again.

#### RECOGNIZING NATIONAL SMALL BUSINESS WEEK

Mr. BOOZMAN. Mr. President, this week marks the 49th annual National Small Business Week, a time to celebrate the innovations, ideas, and hard work of our entrepreneurs. Small businesses are the backbone of our economy, accounting for 65 percent of new jobs over the last 17 years. This vital economic component also employs about half of all private sector employees.

As a former small business owner I recognize the difficulty these owners have to plan for future growth and investment. It is our job to make sure we provide an environment that helps these engines of economic growth. We need to make sure our small businesses have the resources they need to continue providing good, well-paying jobs for hard-working Americans. I was pleased to support the American Jobs Act in March. This legislation seeks to increase capital formation, spur the growth of startups and small businesses, and enable more small-scale businesses to enter public markets.

Arkansans are familiar with what it takes to build a business from the ground up. As home to Fortune 500 companies—including the world's largest retailer, Wal-Mart, and the world's largest processor of chicken, Tyson's—that both started as a small business, residents of the Natural State understand the risks and rewards associated with small businesses.

This week the U.S. Small Business Administration recognized the work of Americans who excel in their work to help small businesses. I am proud to say that Kelly Massey of the Henderson State University Small Business and Technology Development Center in Arkadelphia, AR was recognized as the SBA's Small Business Development Center Counselor of the Year winner.